



CITY OF DURHAM | NORTH CAROLINA

Date: September 8, 2015
To: Thomas J. Bonfield, City Manager
Through: W. Bowman Ferguson, Deputy City Manager
From: Jina B. Propst, Assistant Director, General Services Department
Subject: Proposed sale of 110 Chestnut Street (parcel # 118597) by Upset Bid

Executive Summary

The City has received an offer from Chad Perry to purchase city-owned property located at 110 Chestnut Street. The 0.140-acre vacant lot is zoned RU-5(2), a residential designation, has a tax value of \$12,381.00, and is located in an area currently experiencing intense revitalization. Mr. Perry has offered to pay \$20,000.00 for this parcel (the Property).

Mr. Perry recently sold the neighboring property, 108 Chestnut Street, to a third party, and during the course of that transaction, it was discovered that approximately half of 108 Chestnut's driveway is located on the Property. Mr. Perry has submitted an offer to the City to buy the Property so that he and the new owners of 108 Chestnut can resolve the driveway encroachment matter and so that he can build a house on the Property.

The City proposes to sell the Property as surplus pursuant to the upset bid procedure set forth in N.C.G.S. §160A-269.

Recommendation

The General Services Department recommends that City Council 1) declare the city-owned property located at 110 Chestnut Street surplus; 2) propose to accept the offer of \$20,000.00 from Chad Perry to purchase 110 Chestnut Street and to advertise for upset bids pursuant to the procedure set forth in N.C.G.S. §160A-269; 3) authorize the City Manager, pursuant to Section 86.3 of the City Charter, to accept the bid from the highest qualifying bidder at the conclusion of the upset bid process; and 4) authorize the City Manager or the Mayor to convey 110 Chestnut Street via non-warranty deed.

Background

In March 2015, Chad Perry sold 108 Chestnut Street to a third party, and during the course of the transaction, it was discovered that approximately half of the new owners' driveway is located on the Property. Mr. Perry contacted City staff to discuss ways to resolve the encroachment issue, and after gathering input from the appropriate city departments, staff informed Mr. Perry that the preferred solution is to sell the Property using the upset bid procedure. Subsequently, Mr. Perry submitted his offer to purchase the Property for \$20,000.00.

Issues and Analysis

The Property is being sold “as is,” with the City making no representations or warranties. City Council’s approval of the recommendations set forth above will authorize Real Estate staff to begin the upset bid procedure upon advertisement of Mr. Perry’s offer.

Synopsis of the upset bid procedure

The City may solicit and receive bids to purchase property. A five percent (5%) deposit must be submitted with the bid. When a bid is made and City Council proposes to accept it, the bid is advertised in a local newspaper. This begins the upset bid procedure. The notice contains a general description of the property, the amount and terms of the bid, a notice that within 10 days, any person may raise the bid by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder, the date and time by which upset bids should be received, and the location to submit bids.

This procedure is repeated until no further qualifying upset bids are received, at which time the City Manager may either accept the bid and sell the property to the highest qualifying bidder or choose to not accept the bid.

A bid submitted by any person owing delinquent City-County taxes or assessments will not be accepted. Closing will be held within 60 days of the City’s acceptance of the bid.

Alternatives

City Council could reject Mr. Perry’s offer to begin the upset bid procedure and instead direct Real Estate staff to solicit bids through an advertisement or to use one of the other public sales procedures, such as N.C.G.S. §160A-268 (sealed bids), pursuant to which the Property would be advertised at least once for 30 days before the bids are opened.

City Council could elect not to delegate authority to the City Manager pursuant to City Charter Section 86.3 but instead direct Real Estate staff to return with a report at the conclusion of the upset bid procedure for City Council to either accept a bid or reject all bids.

City Council could direct Real Estate staff to offer the Property by private sale to a non-profit entity.

Financial Impact

The sale of the Property will generate revenue for the City in the minimum amount of \$20,000.00, which will be deposited in the City’s General Fund for Sale of Land (Account 0100-661100). Sale of the Property will also generate tax revenue.

SDBE Summary

This item does not require review by the Equal Opportunity/Equity Assurance Department.

Attachments

Survey of 108 Chestnut Street showing driveway encroachment
Offer to Purchase from Chad Perry
Aerial View of 110 Chestnut